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GORDON METAL CO. *v.* KINGAN & CO., Limited, et al.

March 16, 1922.

[111 S. E. 99.]

Railroads (§ 81*)—"Reserve" from Operation of Deed Held Equivalent to Exception.—A railway company's deed was made subject to reservation of rights belonging to a railway company for maintenance of its tracks upon the land and the rights growing out of an agreement with a manufacturer for use of the side track passing through the land conveyed. Held, under Code 1919, §§ 5149, 5512, that by use of "reserve" the grantor intended to withhold something from the grantee, and by reserving from the operation of the deed the rights of the railway and lessee the grantor intended to except from the deed and retain to itself the rights in relation to the contracts.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Reserve—Reserved. For other cases, see 4 Va.-W. Va. Enc. Dig. 437.]

Error to Law and Equity Court of City of Richmond.

Action by the Gordon Metal Company against Kingan & Co., Limited, and another. From judgment for defendants, plaintiff brings error. Affirmed.

S. A. Anderson and *Smith & Gordon*, all of Richmond, for plaintiff in error.

Geo. Bryan, *A. W. Patterson*, and *Thos. B. Gay*, all of Richmond, for defendants in error.

JENKINS *v.* COMMONWEALTH.

March 16, 1922.

[111 S. E. 101.]

1. Criminal Law (§§ 308, 351 (3), 552 (1)*)—Flight Raises No Presumption of Guilt, but May Be Considered by Jury and Given Such Weight as They Deem Proper.—In a prosecution for maiming, where the evidence showed that immediately after the shooting accused ran away to another county, an instruction that the flight of a person after the commission of a crime raised a presumption of guilt was incorrect, as such flight is merely evidence, tending to show guilt, to be considered by the jury, and given such weight as they deem proper in connection with other facts and circumstances.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 86.]

2. Criminal Law (§§ 741 (6), 782 (4)*)—Defendant's Explanation of Flight a Jury Question; and Court Should Instruct on Manner of

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.